



2

BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

Requested Board Meeting Date: July 5, 2016

or Procurement Director Award ☐

Contractor/Vendor Name (DBA): Pima County

Project Title/Description:

Cost Sharing and Cooperative Support Services between Pima County and the Pima County Flood Control District

Purpose:

The County and District perform certain services to the community that overlap with the other, in the interest of supporting effective and efficient government, this agreement formalizes the obligations, responsibilities, and procedures for joint and cooperative action to provide shared services and establishes a process by which the parties may reimburse one another for those services.

Procurement Method:

Intergovernmental Agreement (IGA)

Program Goals/Predicted Outcomes:

Designates County Officials that shall serve as the designated District officials including County Administrator, Procurement Director, County Attorney, County Treasurer, and Clerk of the Board. Provides for the County to be reimbursed for Central Services and other Administrative and Internal Services provided to the District. These charges for services are approved with the Board of Directors' approval of the District's annual budget.

Public Benefit:

Supports effective and efficient government by not duplicating services.

Metrics Available to Measure Performance:

Annual budget review of services provided and costs associated with the services

Retroactive:

NA

To: COB - 6.21.16 (21)
Ver. - 1
pgs. - 7

7/16/16 10:42

Final Information

Document Type: CTN Department Code: FC Contract Number (i.e., 15-123): 16* 194
Effective Date: 07/05/16 Termination Date: 06/05/21 Prior Contract Number (Synergen/CMS): _____
☐ Expense Amount: \$ 0 ☐ Revenue Amount: \$ 0
Funding Source(s): Flood Control Tax Levy

Cost to Pima County General Fund: 0

Contract is fully or partially funded with Federal Funds? ☐ Yes ☒ No ☐ Not Applicable to Grant Awards
Were insurance or indemnity clauses modified? ☐ Yes ☒ No ☐ Not Applicable to Grant Awards
Vendor is using a Social Security Number? ☐ Yes ☒ No ☐ Not Applicable to Grant Awards

If Yes, attach the required form per Administrative Procedure 22-73.

Amendment Information

Document Type: _____ Department Code: _____ Contract Number (i.e., 15-123): _____
Amendment No.: _____ AMS Version No.: _____
Effective Date: _____ New Termination Date: _____
☐ Expense ☐ Revenue ☐ Increase ☐ Decrease Amount This Amendment: \$ _____
Funding Source(s): _____

Cost to Pima County General Fund: _____

Contact: Suzanne Shields

Department: Flood Control District

Telephone: 520-724-4681

Department Director Signature/Date: _____

Deputy County Administrator Signature/Date: _____

County Administrator Signature/Date: _____

(Required for Board Agenda/Addendum Items)

Suzanne Shields
John M. Paul 6/14/16
C. Schelberg 6/14/16

**Intergovernmental Agreement Between
Pima County
and
The Pima County Flood Control District
for
Cost Sharing and Cooperative Support Services**

This Intergovernmental Agreement ("Agreement") is entered into by and between Pima County, a political subdivision of the State of Arizona ("County") and the Pima County Flood Control District, a political taxing subdivision of the State of Arizona ("District"), as authorized by Arizona Revised Statutes (A.R.S.) § 11-952.

Recitals

- A. The District was created on July 1, 1979, in accordance with A.R.S. Title 48, Chapter 21, as a political taxing subdivision of the State of Arizona, with all powers, privilege, and immunities granted generally to municipal corporations under Arizona law.
- B. The District is governed by a Board of Directors, which is the Board of Supervisors of the County, and is funded by a flood control tax levy on real property within the County.
- C. The District is empowered by A.R.S. § 48-3603 to adopt rules, regulations and bylaws for its orderly operation, appoint such employees it considers desirable and necessary to carry out the purpose of the District, and to enter into intergovernmental agreements pursuant to A.R.S. Title 11, Chapter 8, Article 3, to carry out the objectives and purposes of the District.
- D. The County is empowered to carry out and perform all powers and duties expressly provided by the Arizona Constitution and the laws of this State; to enter into intergovernmental agreements with other public agencies for services, cooperative actions or joint exercise of any powers common to the contracting parties; and to require reimbursement for services to the District under A.R.S. § 11-251.06.
- E. The County and the District perform certain services to the community that overlap with the other, and in the interest of supporting effective and efficient government, the parties share specific resources and related services.
- F. The purpose of this Agreement is to formalize the arrangement between the parties for joint and cooperative action to provide shared services to the citizens of Pima County and to establish the process by which the parties may reimburse one another for those services.

Agreement

1. **Purpose.** The purpose of this Agreement is to formalize the obligations, responsibilities, and procedures applicable to the provision of, and reimbursement for, services by County to District and by District to County.
2. **Term; Termination; Extensions.** This Agreement shall be effective on the date it is executed by the last party to sign it, and shall remain in effect until June 5, 2021, and shall renew automatically upon expiration for successive five year terms, unless sooner terminated pursuant to the terms of this Agreement.

Any party may terminate this Agreement without cause by providing written notice of such termination to the other party and indicating the date of termination. The parties shall have responsibility as designated by the Agreement for all costs incurred prior to the date of termination.

3. **Official Counterparts.** For the purposes of this Agreement, the following County officials shall serve as the designated District officials, and shall fulfill the duties and responsibilities of those District positions unless otherwise agreed by the parties.

COUNTY	DISTRICT
County Administrator	General Manager
Director – Pima County Flood Control District	Chief Engineer and Floodplain Administrator
Director of Procurement	District Director of Procurement
County Attorney	District Attorney
County Treasurer	District Treasurer
Clerk of the Board	Clerk of the District Board

4. **Shared Services.** County and District may provide support services to one another as described in the attached **Exhibit A**, which is incorporated by this reference. These services may be revised periodically by written amendment to this Agreement.

5. **Reimbursements.**

- a. County shall charge District on an annual basis for County services at the same rate that other County departments are charged based upon cost of services for personnel cost, direct materials cost and overhead related to the services and materials provided. These charges are reimbursed through the County's Central Services, the County's Internal Service Funds, cost transfers, automatic salary charge-outs, or through other means determined to be acceptable to the parties. Proposed charges will be submitted to the District staff for review and concurrence in accordance with A.R.S. § 11-251.06. The annual charges associated with the County's Central Services and other Administrative and Internal Service Funds are approved by the District with the Board of Directors' approval of the District's annual budget. After approval of the District's annual budget, charges to the District will be based on services rendered.

Any services obtained by the District or miscellaneous items charged to the District outside the scope of the annual operating budget must be approved by the Board of Directors.

- b. District shall charge County for District services at a rate that represents the District's cost of providing service. District's cost of providing the service will be a function of District's direct personnel cost, direct materials cost and overhead related to the direct costs of the service and materials provided. The County Administrator or his/her designee must approve any services provided to the County by the District.
 - c. The revenue collected by County on behalf of District through the tax levy, services charges, grants or other revenues are owed to District and will be deposited and managed by the County Treasurer for District. District shall reimburse County for all costs incurred in the collection of District revenues.
- 6. **Dispute Resolution.** In the event of disagreement between the County and the District for services provided under this Agreement, the Chief Engineer and the County Administrator will resolve the issues and if necessary refer the problem to the County Board of Supervisors and District Board of Directors.
- 7. **Legal Jurisdiction.** Nothing in this Agreement shall be construed as either limiting or extending the legal jurisdiction of District or County.
- 8. **No Joint Venture.** It is not intended by this Agreement to, and nothing contained in this Agreement shall, be construed to create any partnership, joint venture or employer-employee relationship between County and District. No party shall be liable for any debts, accounts, obligations nor other liabilities whatsoever of any other party as a result of this Agreement, including (without limitation) any party's obligation to withhold Social Security and income taxes for itself or its employees.
- 9. **No Third Party Beneficiaries.** This Agreement shall not create any right to any person or entity as a third party beneficiary.
- 10. **Compliance With Laws.** The parties shall comply with all applicable federal, state and local laws, rules, regulations, standards and executive orders, without limitation to those designated within this Agreement. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Agreement and any disputes hereunder. Any action relating to this Agreement shall be brought in an Arizona court.
 - a. *Anti-Discrimination.* The provisions of A.R.S. § 41-1463 and Executive Order Number 2009-09, issued by the Governor of the State of Arizona, are incorporated by this reference as a part of this Agreement.
 - b. *Americans with Disabilities Act.* This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42

(Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

- c. *Legal Arizona Workers Act Compliance.* County and District both warrant that they will, at all times during the term of this Agreement, comply with all applicable federal immigration laws and with the requirements of A.R.S. § 23-214(A) (together, the "State and Federal Immigration Laws"). A breach of this warranty by either party is a material breach of this Agreement, subjecting the breaching party to penalties up to and including suspension or termination of this Agreement. Either party may, at any time during the term of this Agreement, inspect the books and records of the other party in order to verify the party's compliance with the State and Federal Immigration Laws

11. **Force Majeure.** A party shall not be in default under this Agreement if it does not fulfill any of its obligations under this Agreement because it is prevented or delayed in doing so by reason of uncontrollable forces. The term "uncontrollable forces" shall mean, for the purpose of this Agreement, any cause beyond the control of the party affected, including but not limited to floods, earthquakes, acts of God, or orders of any regulatory government officer or court (excluding orders promulgated by the parties themselves), which, by exercise of due diligence and foresight, such party could not reasonably have been expected to avoid. Any party rendered unable to fulfill any obligations by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.
12. **Waiver.** Waiver by any party of any breach of any term, covenant or condition herein contained shall not be deemed a waiver of any other term, covenant or condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
13. **Non-appropriation.** It is acknowledged that, notwithstanding any other provision contained herein, this Agreement may be terminated if for any reason the District Board of Directors or the County Board of Supervisors fails to appropriate sufficient monies for the purpose of maintaining this Agreement. In the event of such cancellation, District and County shall have no further obligation to the other party other than for payment for services rendered prior to such termination.
14. **Indemnification.** To the fullest extent permitted by law, each party to this Agreement shall indemnify, defend and hold the other party, its governing board or body, officers, departments, employees and agents, harmless from and against any and all suits, actions, legal or administrative proceedings, claims, demands, liens, losses, fines or penalties, damages, liability, interest, attorney's, consultant's and accountant's fees or costs and expenses of whatsoever kind and nature, resulting from or arising out of any act or omission of the indemnifying party, its agents, employees or anyone acting under its direction or control, whether intentional, negligent, grossly negligent, or amounting to a breach of contract, in connection with or incident to the performance of this Agreement. The obligations under this Article shall not extend to the negligence of the indemnified party, its agents or employees.

15. **Notice.** Each party shall notify the other in writing within thirty (30) days of the receipt of any claim, demand, suit or judgment against the receiving party for which the receiving party intends to invoke the provisions of this Article. Each party shall keep the other party informed on a current basis of its defense of any claims, demands, suits, or judgments under this Article.
16. **Insurance.** Each party to this Agreement acknowledges that the other party is self-insured and warrants that such self-insurance fully covers that party's liability regarding this Agreement.
17. **Books and Records.** Each party shall keep and maintain proper and complete books, records and accounts, which shall be open for inspection and audit by duly authorized representatives of any other party at all reasonable times.
18. **Severability.** In the event that any provision of the Agreement or the application thereof is held invalid, such invalidity shall have no effect on other provisions and their application which can be given effect without the invalid provision, or application, and to this extent the provisions of this Agreement are severable.
19. **Conflict of Interest.** This Agreement is subject to the provisions of A.R.S. § 38-511.
20. **Notification.** All notices or demands upon any party to this Agreement shall be in writing, unless other forms are designated elsewhere, and shall be delivered in person or sent by mail addressed as follows:

Pima County:
Director, Dept of Finance
130 West Congress
Tucson, Arizona 85701

Pima County Flood Control District:
Director, Flood Control District
201 North Stone, 9th Floor
Tucson, Arizona 85701

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

In Witness Whereof, County has caused this Agreement to be executed by the Chair of its Board of Supervisors, and District has caused this Agreement to be executed by the Chair of its Board of Directors.

Pima County Board of Supervisors

Sharon Bronson, Chair

ATTEST:

Robin Brigode, Clerk of the Board

Approved as to content:

Keith Dommer, Director
Department of Finance and Risk Management

**Pima County Flood Control District
Board of Directors**

Sharon Bronson, Chair JUL 05 2016

ATTEST:

Robin Brigode, Clerk of the District

Approved as to content:

Suzanne Shields, P. E., Director
Pima County Flood Control District

Intergovernmental Agreement Determination

The foregoing Agreement between Pima County and the Pima County Flood Control District has been reviewed pursuant to A.R.S. § 11-952 by the undersigned who have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to those parties to the Agreement represented by the undersigned.

Pima County

Deputy County Attorney
Date 6/8/2016

ANDREW FLAGG

Pima County Flood Control District

Deputy County Attorney
Date 6/8/2016

ANDREW FLAGG

EXHIBIT A

List of Shared Services

COUNTY and DISTRICT may provide reimbursable services to one another as contained herein. These services may include, but are not limited to, the following:

COUNTY SERVICES	DISTRICT SERVICES
Assessor	Construction and Repair
Clerk of the Board	Drainage Program Administration and Regulation
Central Services	Equipment Support (motorized and non-motorized)
Copying and Printing Services	Engineering and Technical Support
County Administrative Services	Flood Emergency Information and Support
Employee Services, Payroll and Benefits	Floodplain Administration and Regulations
Facility Construction and Maintenance Services	Floodplain Information Technology Services, GIS Support
Financial and Budget Services	Personnel Support
Human Resources Services	Procurement
Information Technology Services	Property and Right-of-Way Maintenance
Internal Audit	Real Estate Services
Legal Services	Riparian Habitat and Environmental Services
Organizational Planning and Training	Training, Education and Related Support
Procurement Services	Water Resources Services
Real Estate and Property Management Services	
Record Keeping	
Risk Management	
Technical Services	
Telecommunications	
Treasurer	
Vehicle and Equipment Maintenance and Repair Services	